

DRAFT

NOTICE OF DEMAND FOR PAST COSTS  
URGENT LEGAL MATTER - PROMPT REPLY NECESSARY

RE: Demand for Reimbursement of Costs Expended at the Gulfco Marine Maintenance Superfund Site, Freeport, Brazoria County, Texas  
SSID No. 06JZ, EPA ID No. TXD055144539

Dear \_\_\_\_\_ :

The United States Environmental Protection Agency ("EPA") previously contacted potentially responsible parties ("PRPs") regarding activities at the Gulfco Marine Maintenance Site ("the Site") located in Freeport, Brazoria County, Texas. In a letter of July 2004, EPA notified you and other PRPs at this Site that you may be liable for costs expended by EPA for response action at the Site under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), commonly known as the federal Superfund law.

At that time, EPA also offered you and other PRPs the opportunity to take voluntary action necessary to abate any releases or threats of release of hazardous substances from the Site or to reimburse EPA for response actions taken. Because you declined to undertake the necessary actions, EPA issued you an Administrative Order to perform the Remedial Investigation/Feasibility Study, which was effective on July 29, 2005.

EPA included a Demand for Past Costs as part of the July 2004 Notice, for \$162,707.07 in past costs to be reimbursed to the Superfund. This letter is to update the cost recovery demand amount, and to request that you attend a negotiation meeting to be held at the EPA Region 6 offices on **xx-xx-2008** *[if we want a meeting]*. EPA has enclosed a draft settlement document with this letter to facilitate negotiations. *[Barbara N., we generally include a model cost recovery settlement].*

**Explanation of Potential Liability**

Under Section 107(a) of CERCLA, PRPs may be held liable for all costs incurred by the EPA (including interest) in responding to any release or threatened release of hazardous substances at the Site, unless the PRP can show any of the statutory defenses. PRPs include current and former owners and operators of the Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the Site, and persons who

accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, EPA believes that you may be liable under Section 107(a) of CERCLA with respect to the subject Site, as a current or previous owner and/or operator of the Site, or as a “generator,” or an arranger at the Site.

To date, EPA has taken certain response actions under CERCLA authority. Below is a brief description of the actions taken at the Site:

- Oversight of the investigation to determine the nature and extent of contamination at the site.
- Collection of investigation sample splits.

*Gary, can you contribute some bullets here about the work done so far?*

### **Demand for Reimbursement of Costs**

In accordance with Section 104 of CERCLA, EPA has taken certain response actions, listed above, and incurred certain costs in response to conditions at the Site. EPA is seeking to recover from you and other PRPs at the Site its response costs and all the interest authorized to be recovered under Section 107(a) of CERCLA. The approximate total response cost, identified through July 31, 2008, for the Site is ~~xxxxxx~~. Under Section 107(a) of CERCLA, EPA hereby makes a demand for payment from you and other PRPs for ~~xxxxxx~~, plus all interest authorized to be recovered under Section 107(a) of CERCLA. A summary of these costs is enclosed with this letter as “Itemized Cost Summary Report.”

While this letter demands that you reimburse EPA for all funds spent or to be spent at the Site, EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within this category, please submit financial records to substantiate your claim.

Some or all of the costs associated with this notice may be covered by current or past insurance policies issued to you. Most insurance policies will require that you timely notify your carrier(s) of a claim against you. To evaluate whether you should notify your insurance carrier(s) of this demand, you may wish to review current and past policies, beginning with the date of your first contact with the Site, up to the present. Coverage depends on many factors, such as the language of the particular policy and state law.

### **Your Response to EPA**

Please send a written response to this cost recovery demand, *within fifteen (15) business days of your receipt of this letter* to:

Barbara J. Aldridge, Enforcement Officer

Superfund Enforcement Assessment Team  
U.S. EPA, Region 6, (6SF-TE)  
1445 Ross Ave.  
Dallas, TX 75202

If a response from you is not received ***within fifteen (15) business days***, EPA will assume that you have declined to reimburse the Superfund for the Site expenditures, and pursuant to CERCLA, EPA may take other enforcement actions.

Also, please note that, because EPA has a potential claim against you, you must include EPA as a creditor if you file for bankruptcy. EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

The EPA appreciates your giving this matter your immediate attention. If you have any questions regarding this letter, please contact Barbara Aldridge, Enforcement Officer, at (214) 665-2712. Legal questions may be directed to Barbara Nann, Assistant Regional Counsel, at (214) 665-2157. Technical questions regarding removal or remedial actions at the Site may be directed to the Remedial Project Manager, Gary Miller, at (214) 665-8318. Thank you for your prompt attention.

Sincerely yours,

Sam Coleman, P.E.  
Director  
Superfund Division

Enclosures